

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SU PING YU a/k/a Amy Yu, <i>on her own behalf and on behalf of others similarly situated,</i>	:	
	:	
Plaintiff,	:	19cv7601
	:	
-against-	:	
	:	
SHANGHAI DUMPLING INC d/b/a Shanghai Dumpling, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

WILLIAM H. PAULEY III, Senior United States District Judge:

Today, this Court conducted a second conference with the parties concerning the issue of consenting to proceed before the magistrate judge for all purposes. As discussed at the conference, Plaintiff's counsel filed this action on August 14, 2019 and marked it as related to Chen v. Shanghai Café Deluxe, Inc., 17-cv-2536—a case in which counsel previously executed a consent to proceed before the magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73. The Court accepted this case as related to Chen.

Inexplicably, Plaintiff's counsel, Troy Law, PLLC, then refused to consent to proceed before the magistrate judge in this case, precipitating additional litigation in this Court as well as before the magistrate judge. This Court conducted a conference with the parties on December 20, 2019 to discuss Plaintiff's recalcitrance and afforded Troy Law, PLLC a further opportunity to consent. Once again, they refused, leading to the scheduling of parallel trials before this Court and the magistrate judge. Thereafter, Troy Law, PLLC launched a barrage of additional frivolous letter applications to this Court.

At today's conference, the parties consented to proceed before the magistrate judge for all purposes and to consolidate this action with Chen and another civil action for trial,

which has been scheduled by the magistrate judge for February 25, 2020. This Court finds that Troy Law, PLLC's conduct in refusing to consent to proceed before the magistrate judge was entirely frivolous and—by counsel's own admission—needlessly multiplied proceedings. Accordingly, this Court directs the magistrate judge to take the following remedial steps if Plaintiff Yu, or any plaintiff in the consolidated actions, prevails at trial and is entitled to an award of reasonable attorneys' fees:

- (1) No attorneys' fees shall be awarded to Troy Law, PLLC for any work performed in this action between August 14, 2019 (when it was commenced) and January 16, 2020 (when the consent was executed).
- (2) In addition, Defendants are entitled to an offset of any attorneys' fees that might be awarded by the magistrate judge for all work Defendants' counsel performed regarding the consent and consolidation issue between November 27, 2019 (the date Defendants' counsel wrote the magistrate judge indicating that consolidation would be appropriate) and January 16, 2020.

Finally, because Plaintiff invoked Rule 38 of the Federal Rules of Civil Procedure at today's conference, this Court holds that Plaintiff's jury demand is timely. Therefore, Plaintiff is entitled to a jury trial in the consolidated action before the magistrate judge.

Dated: January 16, 2020
New York, New York

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J.